



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 18-143, 10-90; FCC 22-79; FR ID 112958]

The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Connect America Fund

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) seeks comment on proposals to ensure that mobile carriers continue to implement advanced telecommunications services and that fixed providers have sufficient resiliency and redundancy during the transition periods of the Bringing Puerto Rico Together Fund and the Connect USVI Fund.

DATES: Comments are due on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], and reply comments are due on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by WC Docket Nos. 10-90 and 18-143, by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS): <https://www.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of a proceeding, the Commission's rules require paper filers to submit two additional copies for each additional docket or rulemaking number.
 - Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S.

Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings at its headquarters. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in this document. Comments may be filed using ECFS. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed in the following as soon as possible.

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Dangkhua Nguyen, Telecommunications Access Policy Division, Wireline Competition Bureau, at Dangkhua.Nguyen@fcc.gov or 202-418-7400, or Jesse Jachman, Telecommunications Access Policy Division, Wireline Competition Bureau, at Jesse.Jachman@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in WC Docket Nos. 18-143 and 10-90, adopted on October 27, 2022, and released on October 28, 2022. Due to the COVID-19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following Internet address: <https://www.fcc.gov/document/fcc-further-strengthen-storm-hardened-puerto-rico-usvi-networks-0>.

Ex Parte Presentations. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons

making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

I. INTRODUCTION

1. According to the United States Department of Agriculture, "the major threat of disaster in Puerto Rico and the U.S. Virgin Islands comes from hurricanes, tropical storms, and drought." In 2017, two hurricanes battered these Territories, causing extensive damage and loss of life. Although repair of infrastructure was critical, "simply putting vulnerable systems back to the way they were before they collapsed is not enough." The outages, flooding, and landslides in Puerto Rico caused by the recent Hurricane Fiona demonstrate that infrastructure in areas prone to hurricanes must be built to withstand storm damage and have redundant capabilities.

2. In the aftermath of the 2017 hurricanes, the Commission committed to ensuring the restoration, hardening, and expansion of advanced telecommunications networks in the Territories by creating the Bringing Puerto Rico Together Fund and the Connect USVI Fund. As part of these efforts, the Commission adopted a plan to support state-of-the-art mobile wireless networks, including the 5G services being deployed nationwide. For fixed broadband services, the Commission adopted a new, single-round competitive process to award fixed broadband support tied to defined deployment and public

interest obligations over a 10-year period in place of the frozen support carriers were then receiving.

With the effects of Hurricane Fiona clearly evident, the Commission now seeks to build on these efforts and ensure that carriers maintain and strengthen existing facilities while network construction and improvement continue toward the goal of bringing more advanced services to the Commonwealth of Puerto Rico and the U.S. Virgin Islands (together “the Territories”). As explained in the following, the Commission seeks comment on proposals to ensure that mobile carriers continue to implement advanced telecommunications services and that fixed providers have sufficient resiliency and redundancy during the transition periods of the Bringing Puerto Rico Together Fund and the Connect USVI Fund.

II. THE BRINGING PUERTO RICO TOGETHER FUND AND THE CONNECT USVI FUND

3. The Commission provided a three-year period of support for mobile carriers to rebuild their networks to their pre-hurricane coverage levels. In addition, carriers had the opportunity to accept additional funding dedicated to the expansion of 5G services throughout the Territories. Although substantial progress has been made, this Stage 2 mobile support will end in 2023, and it appears now that more work is needed to ensure that Puerto Rico and the U.S. Virgin Islands enjoy the same levels of service as the mainland. Hurricane Fiona has provided a reminder of the critical nature of mobile services in times of emergency and that carriers must have the resources necessary to prepare for and repair from severe storms. The Commission seeks comment on these issues.

4. *Transition for Mobile Support.* The Commission proposes to provide transitional support to those eligible facilities-based mobile carriers currently receiving Stage 2 mobile support. The transitional support is for the purpose of maintaining the availability of service until a longer-term support mechanism is adopted and does not supplant the Commission’s goal of furthering the deployment of advanced mobile services. The Commission believes that the preservation of service and advancement of mobile networks will be best achieved by providing transitional support for facilities-based carriers participating in the Bringing Puerto Rico Together Fund and the Connect USVI Fund. At a time of heightened risk from hurricanes, the Commission feels that any lapse in funding, no matter how brief, may leave progress already made in increasing the robustness of existing 4G telecom services and expanding 5G at risk. Should all facilities-based carriers that received mobile support for restoration,

hardening, and expansion be eligible for transitional support? The Commission also notes that support recipients in the Territories must submit their first annual reports later this year. Should the data the Commission receives from those reports impact the provision of transitional support?

5. *Transitional Support Schedule.* For the transition period, the Commission proposes to provide support for up to two years (24 months) beginning in the month immediately following the conclusion of each eligible carrier's current Stage 2 mobile support. The Commission tentatively concludes that providing support immediately following the completion of the current mobile support period will allow a seamless preservation of service and will encourage carriers to continue the hardening and expansion of advanced mobile networks in the Territories. The Commission seeks comment on this tentative conclusion.

6. The Commission adopted the current Stage 2 three-year support period to allow further development of the procedures and standards for mobile voice and broadband services for possible future application in the Territories. At the time, the Commission anticipated issuing a Further Notice of Proposed Rulemaking to seek comment on the implementation of a long-term support process for high-speed mobile broadband networks through Puerto Rico and the U.S. Virgin Islands before Stage 2 ended. Notwithstanding the Commission's proposal for a transition period of up to two years, it proposes that transitional support will cease once support is authorized under a long-term mobile wireless mechanism for Puerto Rico and the U.S. Virgin Islands. The Commission seeks comment on its proposal for the period of transitional support, including whether to continue transitional support after two years if authorizations under a long-term mechanism have not yet occurred.

7. *Transitional Support Amounts.* The Commission proposes to provide transitional support for each eligible facilities-based mobile carrier in an amount equal to the Stage 2 mobile support it currently receives for 5G technologies. For Stage 2, the Commission allocated 25% of the total Stage 2 mobile support of \$258.8 million for the Territories toward 5G network deployment. Participating carriers elected to receive approximately \$21.2 million annually for 5G networks in Puerto Rico and approximately \$367,000 annually for 5G networks in the U.S. Virgin Islands. Carriers are required to return any unused Stage 2 mobile support to the Universal Service Administrative Company within 30 days following the end of the three-year support period. The Commission's proposed transitional support

amount is based on the tentative conclusion that mobile carriers will have successfully restored and hardened their mobile networks by the end of the Stage 2 period, so less support will be needed. The Commission seeks comment on whether Stage 2 recipients have already been using more than 25% of their available support, i.e., if recipients have used a portion of the 75% of support allocated for 4G LTE or better, for the deployment of 5G technologies, to determine whether the proposed amount of transitional support is appropriate. The Commission notes that it is in the process of updating its fixed and mobile broadband availability maps with more detailed and precise information on the availability of fixed and mobile broadband service. The Commission seeks comment on whether it should use these Broadband Data Collection maps to determine transitional support amounts or if it is better to maintain a stable amount of support to allow carriers to make plans on how best to expand and harden their networks.

8. The Commission required eligible facilities-based mobile carriers to meet interim and final milestones to restore their network coverage to at least their pre-hurricane area, while also meeting public interest and network performance obligations for 4G LTE and 5G network technologies. While the interim milestone reporting deadline date has not been reached, staff analyses based on June 2021 Form 477 data preliminarily indicate that mobile carriers participating in the Bringing Puerto Rico Together Fund and the Connect USVI Fund will have met, or exceeded, their interim milestone to restore network coverages to at least 66% of their pre-hurricane coverages. Similarly, the Commission's review of carriers' publicly available coverage maps reflects significant coverage of the Territories with 4G LTE and 5G capable networks. Do participating carriers require a different amount of transitional support to preserve service following the full restoration of pre-hurricane coverage areas? Should the transitional support for each eligible facilities-based mobile carrier vary depending on any network resilience performance metrics? Should any unused Stage 2 mobile support designated for 5G networks be used to offset a carrier's transitional support? For example, if a carrier was unable to use all of the 25% of total support allocated to 5G networks, should that unused support be deducted from the transitional support the carrier would otherwise receive? Is the amount of proposed transitional support sufficient to permit carriers to further harden advanced telecommunication networks supporting 5G service? The Commission seeks comment on its proposal for transitional support amounts, along with any evidence of

why a different support amount or alternative proposals might be necessary.

9. *Appropriate Use of Support.* In the *2019 PR USVI Order*, 84 FR 59937, November 7, 2019, the Commission observed that carriers were rapidly investing in 5G deployment across the country and directed support toward 4G LTE and 5G technologies to ensure that consumers in the Territories were not relegated to substandard mobile service. In light of that investment, the Commission proposes to limit transitional support to restoring, hardening, or expanding networks with 5G-capable networks, and to end use of this support for 4G LTE. Would such a requirement be consistent with the Commission’s goal to “target universal service funding to support the deployment of the highest level of mobile service available today”? The Commission alternatively seeks comment on allowing support recipients to use transitional support to restore (as necessary), harden, or expand networks with 4G LTE and 5G baseline performance requirements and standards set forth in the *2019 PR USVI Order* or any subsequent standard adopted by Commission. Would any other restrictions be appropriate? For example, how would the Commission curtail overbuilding or supporting multiple mobile carriers in areas where more than one carrier already provides at least 4G LTE capable service?

10. *Eligible Areas.* The Commission next seeks comment on allowing a mobile carrier receiving transitional support to continue using such support for the provision, maintenance, and upgrading of facilities and services throughout its territory during the transition. While the Commission generally limits the scope of where high-cost support can be used, the Commission concluded that all areas of Puerto Rico and the U.S. Virgin Islands would be eligible for mobile high-cost support for the restoration, hardening, and expansion of networks to allow carriers “certain flexibility . . . to determine where hardening and/or expansion will be most impactful.” Is it still in the public interest to permit use of support throughout Puerto Rico and the U.S. Virgin Islands to implement greater resiliency and redundancy measures to safeguard and preserve service during periods of future natural disasters? Allowing a mobile eligible telecommunications carrier (ETC) the flexibility to allocate its use of high-cost support throughout its territory could allow a carrier to make more efficient decisions to expand or harden networks, as well as ensure service. Alternatively, should the Commission require carriers to limit the use of transitional support to less populated areas of the Territories based on data from the Broadband Data Collection? What geographic or population limitations, if any, should the Commission impose on

the use of support to preclude the overbuilding of networks and to encourage hardening and deployment in those areas with the least robust coverage?

11. *Minimum Service Requirements and Reporting.* The Commission tentatively concludes that in exchange for accepting transitional support, each mobile carrier must commit to accountability measures for deployment in the Territories. Currently, competitive carriers receiving high-cost support to provide mobile, terrestrial voice, and data services must comply with minimum service requirements for 4G LTE and 5G-NR technologies. Mobile support recipients are also required to file reports and data regarding the use of support for hardening networks and 5G technology deployment, and to maintain a Disaster Preparation and Response Plan. The Commission sees no reason to deviate from including accountability measures, and it proposes that carriers receiving transitional support continue to be subject to performance and reporting requirements during the transitional support period. The Commission seeks comment on what type of performance and reporting measures should be adopted. Should there be specific deployment commitments or performance requirements by the mobile carriers in exchange for transitional support? If so, what are the appropriate deployment commitments, performance requirements, and corresponding milestones the Commission should consider for the transitional support? What types of reports, data, and verification mechanisms are required to satisfy the deployment commitments and performance requirements? When and how often should mobile carriers be required to submit the reports and data the Commission proposes?

12. *Minimum Security Reporting Requirements.* The provision of advanced services necessitates a recognition that such services, in order to be effective and available, must be reasonably secure. In order to further the Commission's goal of bringing more advanced services to Puerto Rico and the U.S. Virgin Islands, it proposes to require that, in exchange for accepting transitional support, a mobile carrier report and explain the network security controls that it has implemented and how they are commensurate with established best practices or an established risk management framework. The Commission seeks comment on whether, in exchange for accepting transitional support, it should also require that mobile carriers report and explain to the Commission instances of unauthorized access to their systems and services. The Commission seeks comment on how to minimize the burden associated with these disclosures, while also ensuring that they promote the security of advanced services. The

Commission emphasizes that mobile carriers' cybersecurity disclosures would not be intended to implicate any additional expenditure of transitional support funds. The Commission seeks comment on this approach.

13. *Election of Transitional Support.* The Commission proposes that mobile carriers affirmatively elect to receive the transitional support, similar to the election process it employed previously for mobile support. Eligible carriers would have a one-time opportunity to elect to receive transitional support in exchange for a commitment to specifically ensure service in their service areas and to use support only for the provision, maintenance, and upgrading of facilities and services for which the transitional support is intended. The Commission seeks comment on the election process for its proposed transitional support.

14. The Commission next addresses the phase-down of frozen support adopted in the *2019 PR USVI Order*. Carriers awarded fixed support to build out high-speed broadband networks with an emphasis on resiliency and redundancy must complete 40% of their required buildout by the end of 2024, with an additional 20% of buildout required at the end of each subsequent year. However, as demonstrated by the damage caused by Hurricane Fiona, current telecommunications networks must be maintained and protected until the services on the new networks start to become available. Under the Commission's current rules, the phase-down in frozen support for incumbent carriers that did not win competitive support will be complete in June 2023, a full one and one-half years prior to the first interim milestone for the winning carriers in the competitive process. The Commission is concerned that incumbent carriers may have insufficient resources to maintain their networks and ensure resiliency during this period.

15. To ensure continuity of service throughout the Territories, the Commission proposes to freeze phase-down support to the incumbent LECs that did not win competitive support at 1/3 of their total legacy support until the winning applicant is required to meet its 60% deployment milestone by December 31, 2025. The Commission tentatively concludes that this revised phase-down schedule for support strikes a more appropriate balance to ensure service in light of the heightened risks of hurricanes in the Territories during the 18-month gap in time following the end of the current phase-down schedule and first deployment milestone deadline of December 31, 2024, for winning applicants. The Commission

seeks comment on this tentative conclusion. The Commission notes that service may already be available to consumers from a winning Stage 2 applicant or other unsubsidized carriers in certain areas. Is providing support to areas where service is already available consistent with the Commission's commitments to fiscal responsibility and efficiently targeted support? The Commission seeks comment on whether the period of time and amount of support it proposes for additional phase-down support promotes access to quality services in the most cost-effective and efficient manner possible.

16. While the Commission proposes to extend phase-down support to December 31, 2025, are there other possible circumstances in which it would be appropriate for the Commission to consider extending or shortening the phase-down period? Would a significant delay or substantial failure to meet the final deployment milestone by the winning applicant require an extension of phase-down support? Conversely, should the Commission consider shortening its proposed additional phase-down period if a winning applicant meets its milestones earlier than required? The Commission seeks comment on any additional factors and circumstances it should consider in adjusting the phase-down period. Are there actions the Commission should take to ensure sufficient flexibility in the event that support should be curtailed or extended?

17. The Commission also proposes that an incumbent LEC must limit its use of the phase-down support to resiliency and redundancy measures, consistent with the *2019 PR USVI Order*, to continue hardening its network, and that the incumbent LEC must at least maintain its current footprint for voice and broadband services. The Commission notes that since part of the Disaster Preparation and Response Plan adopted by the *2019 PR USVI Order* includes ensuring network diversity and backup power, use of transitional phase-down support to purchase and maintain generators to address power failures would be appropriate under the Commission's proposal. The Commission seeks comment on requiring an incumbent LEC receiving additional phase-down support to maintain its Disaster Preparation and Preparedness Plan. Should the Commission impose any other specific uses or limitations, *e.g.*, a geographic limitation, for the use of additional phase-down support? What other obligations or commitments, if any, should apply to an incumbent LEC that receives additional phase-down support under the Commission's proposal? The Commission also seeks comment on whether to adopt a formal procedural process for an incumbent LEC to affirmatively accept additional phase-down support or opt

out of receiving any additional phase-down support.

18. To provide oversight and accountability and prevent waste, fraud, and abuse, the Commission proposes to subject phase-down support recipients to ongoing oversight by itself and the Universal Service Administrative Company. An incumbent LEC interested in receiving this support would be required to submit a spending plan for its use of phase-down support for redundancy and resiliency measures to the Wireline Competition Bureau (the Bureau) for approval. At the conclusion of each calendar year, the incumbent LEC would be required to provide the Commission with a report of how the phase-down support was spent on resiliency and redundancy measures consistent with the Bureau-approved plan, along with a certification pursuant to section 54.313(n) of the Commission's rules that the support was used only for authorized purposes. The Commission seeks comment on this proposal. Should the Commission require additional oversight and accountability measures specific to the receipt of phase-down support? Are there alternative measures the Commission should consider to ensure oversight and accountability of providers receiving additional phase-down support?

19. *Digital Equity and Inclusion.* Finally, the Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed in this document. Specifically, the Commission seeks comment on how its proposals in the FNPRM may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

III. PROCEDURAL MATTERS

A. Paperwork Reduction Act Analysis

20. The FNPRM may contain proposed modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget to comment on any information collection requirements contained in the document, as required by the PRA. In addition, pursuant to the Small Business Paperwork Relief Act of

2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

21. *Initial Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980 as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that “the rule will not have a significant economic impact on a substantial number of small entities.” The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration.

22. The FNPRM proposes support to maintain, improve, and expand mobile services in Puerto Rico and the U.S. Virgin Islands. The FNPRM proposes making support available to a facilities-based mobile carrier that currently receives funding and that maintains its ETC designation using a subscriber-based process. Four mobile carriers in the Territories currently receive high-cost support and three carriers in the Territories currently receive phase-down high-cost support discussed in the FNPRM. The FNPRM does not propose that other carriers will obtain an ETC designation to receive part of the additional support proposed by the FNPRM, so the Commission does not anticipate the proposed rule to affect more than seven providers out of the 1,763 providers currently receiving high-cost support. Accordingly, the Commission anticipates that the FNPRM will not affect a substantial number of carriers, and so it does not anticipate that it will affect a substantial number of small entities. Therefore, the Commission certifies that the FNPRM will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

IV. ORDERING CLAUSES

23. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 254, 303(r), and 403, and §§ 1.1 and 1.421 of the Commission’s rules, 47 CFR 1.1 and 1.421, that this FNPRM IS

ADOPTED.

24. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 254, 303(r), and 403, and §§ 1.1 and 1.421 of the Commission's rules, 47 CFR 1.1 and 1.421, NOTICE IS HEREBY GIVEN of the proposals and tentative conclusions described in the FNPRM of Proposed Rulemaking.

25. IT IS FURTHER ORDERED that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on the FNPRM on or before 30 days from publication of this item in the Federal Register, and reply comments on or before 45 days from publication of this item in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene Dortch,
Secretary.

[FR Doc. 2022-24395 Filed: 11/8/2022 8:45 am; Publication Date: 11/9/2022]